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Examiner: Luke E. Karpinski
Art Unit: 4173REMARKS

This is a supplemental response to the Patent Office Letter of January 8, 2008. The Applicant respectfully requests reexamination and reconsideration. To further clarify the present invention, additional amendments have been made in the two independent claims, namely claim 1 and claim 9. In view of these claim revisions, claim 5 has been further amended and claim 35 has been canceled from the application.

Before discussing the additional claim language incorporated into claims 1 and 9, the Applicant wishes to stress the advantages realized by the delayed gelling in accordance with the principles of the present invention. In this regard, the gel structure of the composition of the present invention does not begin to form for a sufficient period of time during the processing and packaging of the composition such that it can be easily pumped and filled into the final packaging. This means that there is no gel formation within plant pipe-work and so thus stoppages and breakages are minimized. A further advantage of the delayed gelling is that elevated pressure is not required to pump the composition through the aforementioned pipe-work. This not only reduces the manufacturing costs of the end product, but it also increases the filling rates thus meaning that more units of composition can be produced in the same time period relative to previously available techniques. Moreover, because the composition is filled into the final package prior to the gel structure being formed thereafter the viscosity of the composition and therefore its gel rigidity increases. This gives rise to a composition which provides a non-mobile, shear thinning viscous gel upon dispensing from the package. Accordingly, a key characteristic of the present invention is that the composition is filled into the final package before it is formed into a gel structure.

Thus, the following amendments have been made in claims 1 and 9. The following has been added to the end of claim 1:

wherein the composition is filled into a package from which the subsequently formed gel is dispensed, and wherein the composition is filled into the package prior to the gel structure being formed.

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Also, in claim 9 is defined the step of filling the mixture into a package, from which the subsequently formed gel is dispensed, prior to a gel structure being formed. Thus, in both claims 1 and 9 similar limitations have been added to more specifically define the delayed gelling feature of the present invention.

The Applicant now refers to the Dawson '427 patent as the Examiner has referred to this patent citing the paragraph from column 8, line 53 through column 9, line 2. This paragraph describes the manufacturing process including an intermediate step of storing the mixture into a storage cylinder. Dawson states that the gelling of the mixture may be immediate or may take anything up to 24 hours depending on the formulation. However, the teaching in Dawson, as far as what is the state of the composition when it is inserted into the final package, indicates that the gel is maintained under pressure during the packaging into the final container. Refer to column 8 at lines 50-52 of Dawson. Refer also to Dawson at column 9, lines 8-19 where it is imminently clear that the final gel product is stored in a pressurized cylinder until it is filled under pressure into the final package. This clearly indicates that in Dawson the product is in a gel state well before being filled under pressure into a final package from which the composition is dispensed. All of the statements in the paragraph bridging columns 8 and 9 of Dawson relate to intermediate steps and not the status of the product when filled into a final package. Also, the paragraph in column 9 at lines 3-7 relates to forming the gel at an intermediate stage. Accordingly, Dawson whether taken alone or in combination with Hall, does not teach the principles of the present invention as now embodied in amended claims 1 and 9.

There is clear support in the present application for the added claim language. In this regard refer to, inter alia, the example provided in the present application at pages 10-12. The Applicant refers in particular to page 12 of the present application and the steps 10-12. Up until the step 10 there are described various other steps of making the composition. In step 10 the post-foaming agent is stirred into the mixture. Step 11 then indicates that the mixture is immediately filled into a suitable aerosol can for a post-foaming gel composition. Thereafter, in step 12 the gel is dispensed from the can at regular intervals following filling and graded for gel

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rigidity. Thus, the aforementioned aerosol can represents the final "package" from which the subsequently formed gel is dispensed.

Moreover, the use of the term "package" as used in the present application is clearly understood by one skilled in the art to indicate a final package into which the composition is inserted for subsequent dispensing therefrom. In this regard a definition of the word "package" at the dictionary at yahoo.com identifies it as "a container in which something is packed for storage or transportation." This implies a closed system in which a container has a product stored for shipment to a final destination. A person skilled in the art would not consider a product as being temporarily stored in a package but would instead understand that the reference "package" herein refers to a container from which the product is finally dispensed. Thus, the very nature of the term "package" in this context clearly suggests that, by definition, it is the final package or container for the product from which the product is dispensed.

Accordingly, with these further amendments to claims 1 and 9 it is believed that all claims in this application should now be in condition for allowance. In view of the amendment to claim 1, claim 5 has been amended to indicate that the composition is filled into an aerosol can and claim 35 has been canceled from the application.

CONCLUSION

In view of the foregoing amendments and remarks, the Applicant respectfully submits that all of the claims pending in the above-identified application are in condition for allowance, and a notice to that effect is earnestly solicited.

If the present application is found by the Examiner not to be in condition for allowance, then the Applicant hereby requests a telephone or personal interview to facilitate the resolution of any remaining matters. Applicant's attorney may be contacted by telephone at the number indicated below to schedule such an interview.

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The U.S. Patent and Trademark Office is authorized to charge any fees incurred as a result of the filing hereof to our Deposit Account No. 19-0120.

Respectfully submitted,
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